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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,644	02/25/2004	Dan Aharoni	EMC-02-141CIP1	3114
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EMC CORPORATION				
OFFICE OF THE GENERAL COUNSEL				
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HOPKINTON, MA 01748				
EXAMINER				
POLLACK, MELVIN H				
ART UNIT		PAPER NUMBER		
2445				
MAIL DATE		DELIVERY MODE		
01/05/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/786,644

Applicant(s)

AHARONI ET AL.

Examiner

MELVIN H. POLLACK

Art Unit

2445

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Individual Patent Application
- 6) ☒ Other: see attached office action
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 31 October 2008 has been entered.

Response to Arguments

2. Applicant's arguments filed 31 October 2008 have been fully considered but they are not persuasive. An analysis of the arguments is provided below.

3. Applicant's sole argument is that Hartsell in view of Carlson teaches differentiated service and configuration service policy, but does not expressly disclose configuration of selected components (P. 11).

4. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., particular definition of configuration) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The applicant is reminded that examiner is to analyze the claims according to their broadest reasonable interpretation according to the knowledge and common sense of one of ordinary skill in the art. In the particular case, the amendments do nothing to differentiate from resource management and configuration systems nor to narrow the structure or functionality of the system. In particular,

deterministic information management includes the configuring of selected components (Paras. 181 – 201).

5. Even in the case of a narrower amendment, Hartsell teaches the usage of modeling and simulation systems (Paras. 38-45) in a SAN environment (Paras. 51-55) including health monitoring, predictive performance and capacity planning (Paras. 94-99, 124) on the basis of data related to the SAN (Paras. 164-171) and based on the selected boxes (Paras. 259 – 262, 304).

6. Therefore, the rejection is maintained for the reasons above.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartsell et al. (2002/0065864) in view of Carlson et al. (7,133,907).

9. For claims 1, 9, Hartsell teaches a method and system f(abstract) or determining a configuration for a target data storage system (Paras. 1-38) based on input related to a source data storage system including one or more data storage systems (Paras. 43, 62, 67), the method comprising includes the steps of:

- a. receiving, from a user interface, identifiers of one or more source data storage systems, wherein each of the one or more data storage systems comprise a plurality of

components, the plurality of components comprising a data storage device (Paras. 94-108);

- b. receiving utilization or response time data related to the one or more source data storage systems, wherein the utilization or response time data comprises utilization or response time for at least one of the plurality of components (Paras. 209-223);
- c. receiving performance characteristics of work performed on the one or more source data storage systems, wherein the performance characteristics of work performed comprises performance characteristics of work performed for at least one of the plurality of components (Paras. 180-226); and
- d. determining and displaying a configuration of the selected components for the target data storage system based on user inputs and the performance characteristics (Paras. 94-108).

10. For claims 2, 10, Hartsell further teaches that determining the configuration of the target data storage system includes determining the configuration of components of the target data storage system (Paras. 94-108).

11. For claims 1, 2, 9, and 10, Hartsell does not expressly disclose a user interface for allowing a user to select and reselect a number of boxes to be included in a target data storage system, wherein the change in boxes results in a change of configuration. Carlson teaches a method and system (abstract) of configuring a storage area network (col. 1, line 1 - col. 4, line 25; col. 21, line 30 - col. 22, line 15) that further teaches this limitation (Figs. 4-14). At the time the invention was made, one of ordinary skill in the art would have added Carlson to Hartsell in order to better handle the complex system (col. 2, lines 5-35).

12. For claims 3, 6, 11, 14, Hartsell teaches that determining the configuration of components of the target data storage system is used for load balancing the performance of the target data storage system (Paras. 180-226, especially 209-223).

13. For claims 4, 7, 12, 15, Hartsell teaches that determining the configuration of components of the target data storage system is used for determining the storage capacity of the target data storage system (Paras. 180-226, especially 209-223).

14. For claims 5, 8, 13, 16, Hartsell teaches that determining the configuration of components of the target data storage system is used for at least partially optimizing performance of the target data storage system (Paras. 180-226, especially 209-223).

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELVIN H. POLLACK whose telephone number is (571)272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melvin H Pollack/
Examiner, Art Unit 2445
02 January 2008